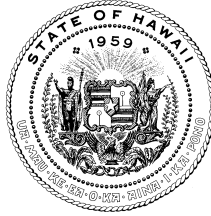


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

**HAWAII ISLAND BURIAL COUNCIL
MEETING MINUTES**

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DATE: THURSDAY, APRIL 20, 2006
TIME: 9:00 AM
PLACE: NATURAL ENERGY LABORATORY HAWAII AUTHORITY
73-4660 QUEEN KA'AHUMANU HIGHWAY
KAILUA-KONA, HI

ATTENDANCE:

HIBC MEMBERS: Charles Young, Chair
Ulu Sherlock, Vice-Chair, Hilo
Anna Cariaga, Ka'u
Pele Hanoa, Ka'u
Leningrad Elarionoff, Kohala
Roy Helbush
Kaleo Kualii'i, Kona

Absent: Ron Dela Cruz, Kohala
Ku Kahakalau, Hamakua
Dutchie Saffrey, Puna
Jacqui Hoover
Roger Harris
Cynthia Nazara, Kona

Staff: Keola Lindsey, SHPD- History and Culture Branch
Julie Taomia, SHPD- Hawaii'i Island Archaeologist
Maryanne Maigret, SHPD- Hawaii'i Island Assistant Archaeologist
Randall Ishikawa, Deputy Attorney General

Guests:

Jean Rasor	Norman Gonsalves
John Roberts	Bruce McClure
Hannah Reeves	Chester Koga
Iwalani Arakaki	Bob Rechtman
Olivia Nenio	Randy Vitousek
Marian Channels	Melitta Hodson
Michael Issac	Anthony Anjo
Fred Cachola	Valerie Luhiau-Anjo
Gail Byrne	Tyler Paikuli-Campbell

Edward Halealoha Ayau
Curtis Tyler
Arthur Mahi
C. Poki'i Seto
Lawton Kipapa
Paul Kay
Geri Bell
Ann Kern

Jim Medlin
Tom Wolforth
Norman Keana'aina
Alfred Spinney
Sheldon Kaho'opi'i
Ruby McDonald
Nani Langridge

I. OPENING REMARKS

HIBC Chair Charles Young (Young) called the meeting to order at 9:22 am

Kupuna Pele Hanoa (Hanoa) offered a pule.

Introduction of the HIBC members, SHPD staff and the Deputy Attorney General.

II. APPROVAL OF THE MARCH 16, 2006 HIBC MEETING MINUTES

A motion was made to approve the March 16, 2006 HIBC meeting minutes. (Elarionoff/Sherlock)

Hanoa said that 'awa'awa is the milkfish, not mullet. Mullet is 'anae. 'Ama'ama is the baby mullet.

Ulu Sherlock (Sherlock) said the opening pule was held in memory of Keolalani Hanoa. The minutes state "in honor of", it should say "in memory of".

Vote: All in Favor

III. BUSINESS

A. BURIAL TREATMENT PLAN FOR THE KALOKO HEIGHTS PROJECT KALOKO AND KOHANAIKI AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND TMK (3) 7-3-009:032

Information/Recommendation/Determination: Report from the Hawai'i Island Burial Council task force appointed at the March 16, 2006 HIBC meeting to conduct a site visit to the project area which occurred on March 30, 2006. Informational presentation of the burial treatment plan by Scientific Consultant Services, Inc. Discussion of the short and long term preservation measures detailed in the burial treatment plan. Recommendations from the Hawai'i Island Burial Council on the short and long term preservation measures detailed in the burial treatment plan. Recognition of lineal and/or cultural descendants.

Young said the task force formed at the March meeting did conduct a site visit. Four HIBC members were present: Young, Elarionoff, Sherlock and Nazara.

Sherlock said the burial treatment plan (BTP) revised and submitted for this meeting does reference "pua 'ama'ama".

Sherlock felt that Tom Wolforth did an awesome job of explaining the different locations they went to on the site visit. They went to a total of seven sites. Sherlock was happy that the descendants were able to attend and asked many questions that were helpful. The revised burial treatment plan (BTP) addresses many of the concerns regarding the short and long term preservation measures.

Tom Wolforth (Wolforth) of Scientific Consulting Services, Inc. introduces himself to the HIBC.

Paul Kay (Kay) of Kaloko Heights Associates and Stanford Carr Development introduces himself to the HIBC.

Leningrad Elarionoff (Elarionoff) thanks Wolforth and Kay for the site visit, they did a good job and were well prepared. It was very interesting. At the March HIBC meeting, Elarionoff made numerous recommendations for revisions to the BTP. Elarionoff was impressed that every recommendation he made was addressed in the revised BTP submitted for this meeting. Elarionoff thanks Wolforth and Kay for that.

Before the site visit, Elarionoff was still not sure about the buffer around the sites being delineated by a rock wall or by ti plants which is proposed. After seeing the area, Elarionoff feels it should be rock walls because the rocks are there, he is a little more adamant about that now.

Elarionoff noted that on Page 20 of the BTP, second to the last paragraph "The" is misspelled "Tthe". Page 22, second to the last paragraph does not indicate a sentence was removed.

Young said one of his concerns on the site visit was the topography of the land. Young thanks Wolforth and Kay for organizing everything and the descendants for making the time to attend. Young refers to page 11 of the BTP. The site visit started at Site 10722 off of Anini Street and then went to Sites 10740 and 10754. From there the topography really took us down. They took a look for native vegetation and there really was not too much, it was mostly christmas berry in Young's opinion. That may be an issue for the descendants to discuss.

There was one site from a topography standpoint that is suspect. That is Site 10740. It is on the side of a hill. Young requested to try not come to close to that site so there would not have to be a huge excavation. There is also a ti leaf plant growing out of the cave opening that should be preserved.

They did not have enough time to get to Site 10717.

The BTP proposes preservation in place. Buffer zones have been proposed.

Young asked Keola Lindsey (Lindsey) what the status of lineal and/or cultural descendant recognition is.

Lindsey says there are no recommendations prepared for the HIBC today and recommends deferral of that portion of this agenda item. The individuals who have applied for recognition are here today.

Iwalani Arakaki (Arakaki) distributes documents to the HIBC that show here familial connection to the general area.

Arakaki said she is here with her nieces. Their tutu man is Paiwa, son of Kaukaliinea, son of Kupono. Their tutu man is Moses Lilinoe, whose son is Kaluawai, and her nieces are the heirs. Paiwa is one of the names on the map of Kohanaiki Homesteads shown on page 4 of the BTP.

Young asked Arakaki if these documents are relative to descendance to the original inhabitants of the ahupua'a.

Arakaki answered yes.

Lindsey said he has seen some of these documents during his review of Arakaki's descendance claim. Some of the documents are new to Lindsey and will be helpful to complete his review.

Young asked Arakaki if she had any thoughts on the site visit or the proposals in the BTP.

Arakaki said not at this time.

Elarionoff asked Arakaki why the names on some of the documents she distributed have been crossed out by dashed lines.

Arakaki answered she does not know. She obtained those documents during her research at the Tax Office.

Young asked Lindsey of the 45 day statutory timeframe for the HIBC to make a determination of preserve in place or relocate has started.

Lindsey answered it has not. The HIBC appointed the task force in March and this meeting is for that task force to report back on what they saw. A determination of preserve in place or relocate cannot be made at this meeting. The 45 day statutory timeframe will begin on the day of the May 2006 HIBC meeting.

Janet Nenio (Nenio) said her mother was Nani Lilinoe. Her father was Kaluawai Lilinoe, whose father is Moses Lilinoe, the son of Paiwa.

Nenio said she was not able to make the site visit.

Young asked if Nenio had any thoughts on the proposals in the BTP.

Nenio said she will wait to find out how the other family feels. From what she has read and heard it sounds like appropriate steps have been taken and that there has been follow through on the recommendations.

Arthur Mahi (Mahi) said the BTP is o.k., leave the burials in place. Mahi knows they are going to find more burials in this place. We have only found the burials that the archaeologists have found, but when the bulldozers come, there will be many more. Mahi sealed some caves in this area. The burials have to stay where they are because those people were there before us.

Young asked if Mahi can help identify where these additional burials are.

Mahi said no, only the bulldozers will find them. When we do find them, they need to stay there. If any artifacts are found, they need to stay also.

Elarionoff asked Mahi his thoughts on using la'i or a stonewall to mark the gravesites.

Mahi said la'i is o.k., but stonewalls are better.

Kahu Norman Keana'aina (Keana'aina) said there are many burials in this area and it is very important that we keep them where they are. The pule have already been set for the burial, you cannot undo the pule, you cannot maha'oi. We need to show respect. We cannot allow the burials and artifacts to be removed. Keana'aina said his family is in this area.

Elarionoff said his family (Awa'a) comes from a little different philosophy. Speaking for his family, who come from Kawaihae Uka, Elarionoff knows for a fact they would not want to inconvenience anybody, even if it meant moving them to another location.

Kenana'aina said for them, if tutu is under the step of the house, that is where they stay.

Young said the BTP proposes preservation in place for all the burials we know about. We do not know if there additional burials, which has always been a concern for the HIBC. If we find more, legally they are called "inadvertent", which is a nasty word for some people. Young said the HIBC encourages developers to treat any additional burials as previously known.

Keana'aina said that before this developer got involved, some iwi were removed.

Young said the plan is to return everything that was taken.

Kay agreed.

Anna Cariaga (Cariaga) said it is good when the families talk among themselves and then come to the HIBC, it makes the HIBC's job easier to make decisions. Cariaga is for 'ohana.

Keana'aina said he has not been getting agendas or letters.

Lindsey said he will get Keana'aina's address.

Marian Channels (Channels) said her father is Kaluawai Lilinoe and her grandfather is Moses Lilinoe and her great-grandfather is Paiwa. She will wait to share her thoughts on the proposals in the BTP.

Hannah Reeves (Reeves) said she is the one that finds all the people connected to this area from the mountain to the sea. Whoever was responsible for putting all the names down made a big mistake. Many families are not mentioned.

Reeves said we are talking about Kohanaiki and Kaloko. Parts of these lands belong to her family. Reeves said she has a map that shows the families.

John Roberts (Roberts) introduces himself to the HIBC. He represents Kahu o Kahiko, a non-profit organization also known as the Keepers of the Past. They record and do archiving. They collect maps and oral presentations by kupuna. Today he has two maps.

Young said what he is hearing is that the legal ownership of this property is in question.

Roberts agreed. He wants to present the lineal heirs of Kohanaiki.

Young said it would be inappropriate for the HIBC to vote on a BTP where the ownership is in question. Property ownership is not an issue the HIBC is empowered to take a position or vote on. We can have opinions. Young is very curious about the information Roberts may have, but at the end of the day, the HIBC votes whether to preserve these burials in place not on who owns this property.

Sherlock asked Deputy Attorney General Randall Ishikawa (Ishikawa) if it is appropriate for the HIBC hear this information and discuss this matter. Sherlock wondered if it will set a precedent.

Ishikawa said the powers and duties of the HIBC are limited by Chapter 6E of the Hawai'i Revised Statutes. Ownership of property is not a power given to the Council.

Young asked Ishikawa if property ownership is in question, what are the liabilities for the HIBC to make a decision on a BTP that may not be valid.

Ishikawa said if there is a dispute of ownership, the HIBC is not the body to resolve that.

Young said if the ownership is in question or dispute is it appropriate for the HIBC to be taking action on that property.

Ishikawa said he would have to review this matter, but a court or some body other than the HIBC would determine ownership.

Reeves said she is one of the living descendants and there are many. If the HIBC is making plans for the graves and all the people have not been contacted, something is wrong.

Jean Rasor (Rasor) said the maps show the burials and the lineal descendants.

Roberts showed the HIBC two maps. Roberts said one map shows seven burials next to the homes of the families. There is a list of the families. This map was made in 1887 and shows Kaiakoili and Kameheu(?). They are family. The later map shows Kaiakoili but not Kameheu. The later maps do not show all the families. There are still heirs to these lands. Don't regard the later maps as proof.

Kaleo Kualii (Kualii) said he would like to clear the land ownership issue before making a decision on this.

Ishikawa said he would look into the matter. It would help to see any documents that show any evidence of a question of ownership. Ishikawa will also review the question of whether the HIBC can make determinations relative to a property that has possible title issues.

Cariaga said the Council also needs to learn more about the area and the families. This is important because it gives the background on why the families put the iwi where they are and why the families left.

Curtis Tyler (Tyler) Thanked Wolforth for providing him with a copy of the revised BTP. Tyler has not submitted any descendancy claim to Lindsey, but will be doing so soon.

Tyler said the first bullet on page 9 of the BTP states that: *“all iwi kanaka will be preserved in place”*. Page 10 of the BTP also says all iwi kanaka will be preserved in place. Tyler said he realizes that these comments were directed towards the sites being addressed in the BTP. Tyler reminded the Council that at the March 16, 2006 HIBC meeting, Paul Kay made an astounding statement. Tyler did not have the verbatim statement, but recalled Kay saying each iwi is significant and will be left right where they are found. The statement is astounding to Tyler because he has never heard such a statement from any developer. Tyler queried Kay after the meeting, who assured him that is exactly what he meant. Tyler thanked Kay because that is the type of statement that resonates with what our kupuna are saying.

Tyler noted that the second paragraph on page 26 of the BTP states: *“In the event iwi are inadvertently discovered, Kaloko Heights Associates, LLC and its successors and assigns will make every effort to alter project design to facilitate preservation of the iwi in place. Depending upon design elements, and status of the development and construction elements, preservation in place may not be feasible.”* Tyler noted that there is no mention of consulting with the ‘ohana and furthermore that statement is possibly inconsistent with what Kay has said. Tyler does not doubt Kay at all, that was a very strong and pono statement in Tyler’s mind.

Tyler felt that a border of la’i is not sufficient. It should be a permanent border that delineates the metes and bounds of the burial easement in perpetuity. La’i may be appropriate in certain portions of the burial easement. The stones should be gathered from the property before the bulldozer comes in and scars the stones. The wall should be 3 or 4 feet high and designed in consultation with the ‘ohana. The wall should have a dry stacked appearance and one gate for access. In addition to the buffer area, there should be an additional 10 foot no build setback. There should be a prohibition of any run-off being directed into the burial easements.

If there is going to be major grading around the burial easements that is going to significantly alter the cultural landscape, the ‘ohana need to be consulted. Native plantings within the burial easements should be done in consultation with the ‘ohana. All burial easements must be recorded with the Bureau of Conveyances before final subdivision approval. Tyler said you will find many of the proposals to record with the Bureau have not taken place. That practice needs to stop right now. Tyler said there is also a very significant Ala hele present on this property. Some of it may have been bulldozed. The trail splits off, and one branch goes straight to Kaloko pond. Tyler has been told a second branch goes back into Kohanaiki and a third branch goes to ‘Aimakapa. These trails show its significance and the connection between mauka-makai.

Rasor said iwi need to be preserved in place. Rasor does not agree with walls and la’i, they should be left the way they were put in the ground. Nobody is supposed to know where they are. Sometimes walls are necessary to protect from the development going on around them.

Josephine Keli’ipio (Keli’ipio) said any statements made by the Developer relative to inadvertent discoveries need to be put in writing.

Norman Gonsalves (Gonsalves) said there is pilo in this area and it is very significant to those who practice la'au.

Gonsalves asked if all the caves have been surveyed.

Young said it is represented in the BTP that all the caves have been investigated to the extent the archaeologists could.

Gonsalves said it would behoove the developer to review the old maps for this area. Many times the family buried right in the hale pa. Any house site should be considered for protection.

A motion was made to close agenda item A. (Elarionoff/Sherlock)

Vote: All in favor.

**B. BURIAL TREATMENT PLAN FOR FEATURE B OF SIHP SITE 24270
PAHOEHOE 1ST AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND
TMK (3) 7-7-008:029**

Information/Recommendation: Informational presentation of the burial treatment plan by Rechtman Consulting, LLC. Discussion of the short and long term preservation measures detailed in the burial treatment plan. Recommendations from the Hawai'i Island Burial Council on the short and long term preservation measures detailed in the burial treatment plan.

Bob Rechtman of Rechtman Consulting, LLC gives an overview. The landowner Melitta Hodson (Hodson) is here as well. They are before the HIBC to do an informational presentation. There are descendants who have come forward and copies of the BTP have been sent to them. There have been no in depth discussions with those descendants at this point.

This BTP is for one burial platform feature on this property which is mauka of the Kuakini Wall within this ahupua'a. The Kuakini Wall actually forms the makai boundary of the parcel. An archaeological inventory survey has been conducted for the entire property. The majority of the sites and features on the property were agricultural in nature. The non agricultural features consisted of habitation sites and a larger site consisting of habitation sites and the burial feature which is Site 24270. Figure 3 on page 5 of the BTP shows the site ending on the northern property boundary, but it does continue onto the adjacent property which is Ho'omalua on Ali'i. Figure 8 on page 12 of the BTP shows the continuation of the site. Figure 8 shows the location of the burial, feature B within the larger site. Figure 4 on page 6 of the BTP shows a close up of the Site and features A-K.

The burial was identified during the inventory survey as a result of a test excavation within the platform. Everything was returned into the test unit and the feature was reconstructed.

Notices were run in four newspapers. There was only one response, Clarence A. Medeiros, Jr. Rechtman knew of other individuals with a connection to Pahoehe Ahupua'a via other projects, Iwalani Arakaki and Curtis Tyler. Rechtman said there are probably more descendants who will come forward and a copy of the BTP will be provided to anyone who would like one. Discussions will take place with those who identify themselves as descendants from here.

The entire Site 24270 which includes the burial feature B, is slated for preservation. The proposal will be for 20 feet around the entire site. This gives the burial feature an effective buffer of 20 feet on the western side, 50 feet on the south and roughly 100 feet on the northern and eastern sides.

Vegetation with the potential of damaging the site will be removed from the area under the supervision of a permitted archaeologist. There is the possibility of introducing vegetation into the area, which may be limited to one or two trees for shade.

A small sign will be put up. A possible example of a sign is shown on page 11 of the BTP. Any descendants requiring or wishing for access will be provided access to the site. The preservation buffers and right to access will be incorporated into the property deed by way of a covenant. The preservation buffers will be recorded with the Bureau of Conveyances.

There are no construction plans for the property. Everything is tentative. The landowner is looking at trying to create some sort of botanical garden for the upper 3 acres of the parcel and then a lot subdivision for the lower part. These plans are undetermined because it ties into the County's plan for extending La'aloa Boulevard which may have some impact on this property.

Young asked what the current zoning for the property is.

Hodson answered Ag-5.

Rechtman said development plans may involve rezoning.

Young asked if a rock wall will be built around the entire site.

Rechtman said typically new constructions are not added, the preservation buffer may be delineated by plantings. An interim buffer of thirty feet will be added to the west side of the burial feature during construction.

Kuali'i asked if the landowner would be willing to build a rock wall around the burials site if that is what the families wanted.

Rechtman said yes, but would have to discuss it with the SHPD archaeology branch to discuss how they want the overall archaeological site preserved with the introduction of rock walls.

Elarionoff referred to page 7 of the BTP. Elarionoff asked if the marine shells mentioned were purposely placed within the burial feature.

Rechtman said this feature also functioned as a habitation site, so there may be debris there from habitation activities.

Elarionoff asked about the topography of the land surrounding Site 24270.

Rechtman said where the site is itself is fairly level, but overall the property is pretty steep mauka to makai. There is soil in the area which is probably why there were agricultural features.

Elarionoff asked about the bulldozed path referred to in figure 8 on page 12 of the BTP.

Rechtman said there was a fire.

Hodson said in 1984. The fire destroyed many of the old trees. Any growth that exists now is since that time.

Elarionoff asked if the entire property is surrounded by a rock wall.

Rechtman said it is.

Elarionoff asked if the bulldozing for the firebreak missed all the sites.

Rechtman said they cut a path right through the site, but missed the burial feature.

Young said that a large site is slated for preservation.

Rechtman said close to half an acre.

Young asked if the preservation area would be subdivided out as a separate parcel or would it be partially in one lot and partially in another.

Rechtman said it would be designed not to be in a lot.

Tyler said he is a recognized lineal descendant to burials in Pahoehe 3rd. Rechtman sent him a copy of the BTP. Tyler thanked Hodson for preserving all of the features in this particular site. Tyler appreciates that gesture.

Tyler said a stone wall should delineate the buffer around this site. The wall should be constructed right away so the permanent buffer and controls are in place as soon as possible. A gate will provide access. To the extent that there may be buildings nearby, a ten foot no build setback should be established. No run off should be directed into the preserve area. If the cultural landscape around the site is to be changed due to land alteration around the site, the descendants must be consulted. Alien plant species should be removed and the descendants should be consulted regarding landscaping with native plant species. The preservation easement should be recorded with the Bureau of Conveyances as soon as possible. The SHPD should verify that recordation prior to agreeing to any subdivision.

There are trails through this property, shown on page 6 of the BTP. The trail continues makai. Tyler believed he has walked this trail up to the Pa Kuakini, which is the makai boundary of this property. Na Ala Hele did some reconnaissance work and noted this is a highly unusual trail in that it is a raised trail but does not have curbstones.

Tyler said construction personal should be made aware that this is a larger preservation area that includes but is not limited to the burial feature. Tyler said all inadvertent burials should be preserved in place to the extent possible. If a determination is made to relocate, no relocation should take place until the descendants have been consulted and proper cultural procedures have been followed.

Elarionoff asked if the proposed signage is adequate.

Tyler said the HIBC has approved different sign for different situations. The wording on this sign provides enough of a context for people to understand this is a sensitive area. Tyler said he is not sure if the wording is adequate, and may have to think about it. Some people do not want the site marked at all, and Tyler respects that. If the Council has some recommendations, Tyler would be interested in what they might be. If there is a buffer wall with a gate for restrictive access, the sign is not that important.

Cariaga said it is appropriate to use the Hawaiian language on the signs.

Tyler agreed and said there are two official languages in Hawai'i, English and Hawaiian.

Tyler said Rechtman sent him the BTP and asked for comments. Tyler wanted to share his comments with the HIBC at the meeting so everyone could hear. There are more descendants and if anyone wants to provide comments or recommendations Tyler will respect that and would be very interested to hear them.

A motion was made to close Agenda item B. (Hanoa/Cariaga)

Vote: All in favor.

**C. SITE 2079 LOCATED WITHIN THE PROPOSED KAHULUI TO KEAUAHOU PARKWAY ALIGNMENT (FORMERLY KNOWN AS THE ALI'I HIGHWAY) KAHALU'U AHUPUA'A, NORTH KONA DISTRICT, HAWAII ISLAND
TMK: VARIOUS**

Information/Recommendation: Presentation by R.M. Towill Corporation of a final preservation plan on behalf of Hawai'i County which details the short and long term measures of preservation in place of Site 2079. Recommendations by the Hawai'i Island Burial Council on the short and long term preservation details within the final preservation plan.

Bruce McClure (McClure) the Director of the County of Hawai'i Department of Public Works gives an overview. This is a long standing project. There was an approved BTP for the southern portion of the project which goes from Lako Street to the Keauhou Shopping Center. It was discovered that one of the burial features was incorrectly plotted. It was originally thought that this burial was outside the road alignment. When it was re-plotted and field verified, that was not the case. All of the other sites have been verified to have been plotted accurately.

Site 2079 is a lava tube burial and is the site that was incorrectly plotted. The County then generated a new BTP for this Site that proposed relocation. In July 2004, the HIBC determined the iwi must be preserved in place. The County honors that determination and have looked at ways that could be done and that is the focus of today's presentation by the County's consultant, R.M. Towill.

Kaleo Kualii left the meeting at 11:44 a.m. and quorum was lost.

The HIBC meeting was recessed.

Kualii returns at 11:51 a.m. and quorum is regained.

The HIBC meeting is called back to order.

Chester Koga (Koga) of R.M. Towill Corporation gave an overview. The project is formerly known as the Ali'i Highway and is now called the Keauhou to Kahului Parkway. Basically the road is 8 miles long and is being divided into two separate phases mostly because of financing. The road will initially be two lanes but eventually expanded to four lanes.

In July 2004 the County requested to relocate the remains within Site 2079, Feature B but the HIBC determined they must be preserved in place. Since that time they have been talking about what alternatives are available. Several alternatives were looked at that would allow construction of the road to proceed while preserving the site in place. There are three other burial sites in close proximity to Site 2079, one is previously known and the other two are classified as inadvertent. Site 2079, feature B is a lava tube and the remains are located in a portion of that lava tube. For the road to go through this area, it will have to cross over the lava tube. The initial thoughts were to collapse and fill the portions of the lava tube without remains. They then took a look at what options are available to cross the tube without collapsing it.

Koga distributed a handout which discussed the six alternatives available for the road in the vicinity of Site 2079. Three of those alternatives involved relocating the remains, so those are not an option. Two of the alternatives involved building a viaduct. A problem with the viaduct is that the road was originally designed to be pedestrian accessible. Constructing a viaduct is also very costly and would double the cost of constructing the entire road.

The solution they came up with is to move the road to the makai side (alternative #3 on the handout) of the existing right of way. That allows Site 2079 to be left intact without collapsing the lava tube and preserve the inadvertents in place.

Koga said he is hoping to hear recommendations from the HIBC and any descendants in attendance on their proposal. Once a definitive construction plan is generated, that will be shared with the descendants. There are no lineal descendants identified, but there are 22 cultural descendants.

There will be a minimum buffer of 10 feet to the burial location and 25 feet to the lava tube entrance. The entry to the lava tube is currently blocked by a rebar gate. Koga said they are looking at replacing that gate with a new one. A person's foot could fall in between the rebar on the current gate, so they want to make a new one that is safer. The area around the site would be landscaped with native plants. They are looking at some sort of interpretive signs explaining the significance of the area.

The portion of the lava tube that would be crossed would be reinforced by a concrete slab which would act like a bridge. They are looking at two 12 foot travel lanes with six foot shoulders on either side and a ten foot wide shared path on either side.

The road project is 80% funded by the Federal Government and 20% funded by the County.

Koga said in about 1996, it was reported that children from nearby homes were in possession of human bones. Their parents called Kamehameha Investment Corporation who gathered the bones and buried them in their current location within the lava tube.

Young asked Koga if the entire roadway is being narrowed.

Koga answered it is.

Young asked how that affects the two burials determined to be relocated via the 2001 burial treatment plan. Young asked if that was still necessary.

Koga said that is not necessary. The two burials are within the road right of way but outside of the path of the road.

Young asked if it is necessary to move them.

Koga said at this point the one in Kahalu'u definitely not. The other one more towards Holualoa is close to the edge, but they have not looked at that site in detail. Because the road is not as wide as originally proposed, they may be able to go around it.

Young said the original burial treatment plan approved the relocation of two burial sites. The road is currently more narrow and avoiding going over the remains within Site 2079, but still has to pass over a portion of the lava tube. The current road design will also avoid the inadvertents identified during data recovery in 2004. The portion of the tube that the road may pass over will be reinforced with a concrete slab.

Elarionoff asked about the incident in 1996 involving the children. Elarionoff asked how the reburial location was chosen. Elarionoff asked if the bones were returned to their original location.

Koga said they gathered up what they could, placed them in a basket wrapped in kapa and placed in their current location.

Kuali'i asked if the 25 foot buffer to the cave entrance is permanent or an interim construction buffer.

Koga answered it is a temporary buffer that will go down to a minimum 10 feet.

Lawton Kipapa (Kipapa) said he is here to do whatever has to be done to protect the kupuna iwi. Kipapa cannot understand what changes the County has done to the original plan. This needs to be discussed with the 'ohana.

Ann Kern read a letter to the HIBC on the behalf of Mikahala Roy:

"Respected Council Members:

Aloha kakou. For inadequate notice of today's meeting, I'm unable to appear personally to render testimony today and am grateful to Ms. Ann Kern who will read this letter addressed to you for the benefit of the record.

I am Mikahala Roy, recognized descendant of the lands affected by a proposed Ali'i Parkway. I here represent myself, my family and members of my extended family. I am also President of Kulana Huli Honua, a community organization that has served to help gather Hawaiian descendants of Kona and Hawaii to give voice to you, members of the HIBC and other government authorities. Prior to 2000 and consistently since then, this organization has gathered descendants toward education in advocacy for protection of absolutely unique, historic and sacred lands, Hawaiian heritage and a way of life in Kona.

It becomes clear with each passing day that the lands between Kailua and Keauhou are indeed what they've declared "the largest special management area in the state of Hawaii." Filled with sacred sites and pre-1000 AD history yet untold, these lands have been the royal residences of Alii and the households of Alii up through the days of the court of our dear Queen Liliuokalani. This area is the crown jewel of gems of these Hawaiian Islands. Where Alii lived, Alii rest. Burials should be protected against all forms of invasion, which include signs posted about them for casual, disrespectful view by a public that does not know, or care to know about them. Dr. Noenoe Silva of Political Sciences at the University of Hawaii at Manoa has said, "these lands began the national identity of the Hawaiian Islands." Yet here we are today to hear of a new approach to you by the County of Hawaii to place a federal lateral highway exactly through Hawaiian lands of Great Sacredness and History.

Kulani Huli Honua gives voice for hundreds of Hawaiian descendants of Kona and beyond Kona against this proposed highway. The building of such a structure in these lands will continue to annihilate any esteem to the cumulative untold value of lands of Kailua, Kaluaokalani, the Kahaluu Historic District and Keauhou. Descendants have been injured beyond measure by the blatant disrespect given to ourselves and our precious iwi kupuna. How would you be able to take up your place in a gainful, working society, knowing your iwi kupuna (a part of yourself) are disturbed so horribly; your sublime heritage lands- neglected and worse- destroyed forever?.

Our continued strongest contentions are:

- I. New members of the HIBC must be updated and versed on the history of all descendant testimonies related to the proposed Alii Parkway.*
- II. Descendants of the lands affected must be sought out and advised of all related action.*
- III. All decision making for this matter should be tabled until all descendants wishing to give voice have had adequate opportunity to comment on all aspects related to it.*
- IV. Any work on redesign of the proposed parkway must give descendants (or their designates) full opportunity to be a part of the planning with and at the Federal Highways level.*
- V. All descendants must receive copies of all burial treatment plans related to this project.*

There are many more points and issues to discuss related to this matter. Please accept this letter on behalf of myself, my 'ohana near and extended, and the organization Kulani Huli Honua.

Ke'Ano Haahaa,

Mikahala Roy, President"

Young asked Koga if the handouts he distributed have been sent to the descendants.

Koga answered no, he intends to do so.

Young asked Koga if the handouts detail everything they have at this point in time.

Koga answered the handouts detail what they have at this point.

Kipapa said before it was a four lane highway and now it is a two lane highway. The plans keep changing. The iwi need to be protected without a bridge over them.

Rasor said he did not know this is coming up because he has not been getting the meeting agendas. Rasor said he is a recognized lineal and cultural descendant. Rasor said Site 2079 is part of the 'Ohi'a cave complex which ties into 'Ohi'amukumuku or 'Ohi'a'ai Heiau. This is his family. This is where his great-grand uncle is buried, they tried to dig him up and Rasor is still involved in that process. This highway goes through some of the most sacred sites in the Kingdom of Hawai'i. These are the lands where high chiefs and kahuna lived since the 1200's, maybe longer. There are iwi everywhere. Building a viaduct and collapsing any part of this cave complex destroys the mana in there. These are not just high chiefs, these are 'aimoku and mo'i from before the time of Lonoikamakahiki.

Rasor said he would like to receive his notifications all documents related to this issue.

Tyler said he is a recognized cultural descendant. Many of the alternatives listed in the handout are not really options because they involve relocation of the iwi. Tyler said there was information presented at previous HIBC meetings that indicated 18 kupuna were removed from this cave. Tyler is concerned that the recognized descendants were not notified of this meeting or given the opportunity to review the handout Koga distributed. Tyler said if this information has not been distributed to the recognized descendants, this matter should be deferred. Tyler is concerned that Koga has indicated they will be drawing construction plans and moving forward. Alternative #3 requires the filling of the makai end of the cave. Every alternative is going to affect the iwi in some way. Federal money requires assurances that this road is going to be built. Tyler said he knows for a fact and the County knows for a fact that right in the center of Phase 2 (Lako Street through Kahului 1 and 2 up to Highway 11) of the proposed roadway there are burials.

Keli'ipio said she has been following this road project since 1998. Keli'ipio lives 500 feet from the proposed highway. Keli'ipio said she was confused by Koga's presentation. The highway will not have enough pedestrian crossings. The environmental impact statement (EIS) said that the road will only be 4.5 miles long and Keli'ipio is confused why Koga said it was 8 miles long. One confusing thing about Koga's presentation is that they did not show the whole road alignment, they just showed the area that is a problem. The only safe road is two lanes, it should never be four lanes. The current plan is for two lanes but Koga said they are leaving it open for future improvements, Keli'ipio thinks that means four lanes. The Federal Government will not give the money unless this road is eventually going to be four lanes.

Young asked Keli'ipio if she had any recommendations to the HIBC on how to protect the burials along the road alignment.

Keli'ipio said keep the road two lanes and then maybe the burials can be avoided. If the road meanders that keeps the speed of cars on the road down and that respects the burials.

Young asked Ishikawa where in the process the BTP is. Young asked if the original burial treatment plan was for the entire road, the 8 miles. Because there was an error in the location of Site 2079, Young asked if that issue came back as an amendment to the original BTP.

Lindsey said the Deputy Attorney General at the time advised the Department that the only way the County could propose the relocation of the remains within Site 2079 was to generate a new BTP for that site. The County did that.

Young said that relocation plan was presented to the HIBC who then determined the Site must be preserved in place. Young asked where this presentation is going.

Lindsey said technically within 90 days of the HIBC's July 2004 determination, the Department should have approved the details of preservation in place. Obviously in 2006, that deadline has passed, but this presentation is leading us towards approving the final details.

Young said the details being presented is to build the roadway partially over the lava tube.

Lindsey agreed that is one option being proposed.

Young asked what the HIBC's authority is relative to that proposal. Young asked if it was a determination or a recommendation.

Lindsey answered it is a recommendation. The Department will ultimately determine the final preservation details.

Koga clarified that the road is 4.5 miles long and that his earlier statement that it was 8 miles long was not correct.

Kuali'i asked Koga about Tyler's earlier statement that there are burial sites in the middle of the current road alignment.

Koga said the original BTP identified 22 burials that were found within the road corridor and it ended up only two sites were proposed to be relocated, which the HIBC approved. During data recovery, it was discovered that Site 2079 had been mapped in the wrong location.

Koga said they are not at a stage where they are going to go into the next construction phase. They are still about a year away. They always knew they would have to come back to the HIBC to present where they were going with this. Beyond the drawings on the handouts he presented, Koga said they really have not gotten into detailed construction plans for the area surrounding Site 2079. When they do have those details, they will be forwarding them to the SHPD for review. The whole idea of the presentation today was to show their proposals.

Young said the descendants need to be advised of these presentations ahead of time.

Gonsalves said the cultural landscape will be destroyed with the construction of this highway. The highway is not being built for the local people. The road is two lanes now, but eventually will be four lanes.

McClure said additional lanes cannot be built without the whole public process being applied again. In order to participate with the Federal Government, there has to be enough room for four lanes, but four lanes is not being master planned.

McClure said they would be happy to meet with the descendants to go over the different proposals.

Reeves said she is a lineal descendant and is connected to all the graves in this area. Reeves asked Koga and McClure if they can guarantee the cave will not collapse.

McClure said it is hard to guarantee, but they will try their best to build it as strong as possible.

Alfred Spinney (Spinney) introduced himself to the Council. Spinney said he is at the meeting in his official capacity as Minister of Interior for Neepapa Aupuni Hawaii. Spinney said he is filing a cease and desist with the Supreme Court of the Tribunal Council Aupuni Hawai'i with any faction that creates genocidal actions against na po'e kanaka. This process is strictly administrative in nature, there is no personal discrimination or hatred.

Young asked Spinney if he is testifying on any agenda item in particular.

Spinney said several people who have testified today have complained to him about what he is going to do. Spinney said he is here to notify the agency of the foreign entity of the injuries. Spinney said they record injuries from all the Hawaiian Islands. Spinney said all he needs is acknowledgement that he has served the notice. He has a document to hand out to all the Council members and would like the Deputy Attorney General to acknowledge receipt.

Young asked the Ishikawa for advice.

Ishikawa said written information or testimony relative to any agenda item should be accepted.

Cariaga asked Spinney to explain what he is giving the Council.

Spinney said there is evidence of complaints that have been filed of parties that have been injured. These parties have a bona fide interest in the iwi kupuna.

Spinney said Sheldon Kaho'opi'i (Kaho'ipi'i), the Maka'i Nui of Neepapa Aupuni Hawaii will serve the Council with the paperwork.

A motion wass made to enter into Executive Session to discuss the rights, duties and privileges with the Deputy Attorney General. (Cariaga/Hanoa)

Vote: All in Favor

Executive Session begins at 1:20 pm

The Open Meeting reconvened at 1:48 pm

Spinney said he will give the Council the document and needs a signature acknowledging receipt.

Ishikawa said the document is being presented as testimony related to an agenda item, so the document is being received on that basis along with all the other testimony related to the agenda item. Ishikawa said on the issue of accepting service of the document, it would have to be done in accordance with the laws of the State of Hawaii.

Spinney said he would accept that as acknowledgement.

Kaho'opi'i distributed the document to the Council.

Keli'ipio thanked the County for trying their best to get the road to be a two lane highway. The unfortunate part about it is that the County is still dealing with money from the Federal Government which forces them to eventually widen the road to four lanes. Keli'ipio is not comfortable with the presentation that proposes going over the cave.

McClure said the County is happy to have this item deferred until they have had time to confer with the cultural descendants.

Tyler appreciates the County's willingness to defer the item. Tyler said earlier Kualii asked a question directed at Koga regarding iwi in the road right of way in Kahului Nui. Kualii had asked Koga about that issue. Tyler said Koga had answered that the County had studied that issue and that the road had been realigned portions of the road. Tyler said that may be true near the Keakealaniwahine complex and Holualoa 4th. However, Koga did not address Kahului Nui. This is not going away. Tyler felt that Kualii did not get an answer to his question. Tyler said if Koga feels there are no burials there, then this project needs to go back to the drawing board. The roadway corridor is highly restricted, it cannot be rerouted. It has also come to Tyler's attention that in Holualoa 2nd or 3rd where the so called "Costa Caves" is located, portions of those caves contain significant iwi. While they may not be immediate vicinity of the highway right of way, when Tyler says significant, he means significant. Tyler brought this forward not to be obstructive, but to present the facts. Tyler said the people of this area have been trying to present the facts for years. Nobody seems to be listening. If it is possible to build this road, then it should be built. If the road cannot be built due to cultural concerns expressed by the families of this area, then let's try another route.

Tyler said the handout Koga distributed had seven proposals. Five of these proposals are not feasible as stated in the handout.

Young asked Tyler if the iwi he is saying are in the right of way where addressed in the original BTP.

Tyler said he cannot say for certain, but those iwi have been known about for a long time. Tyler said these iwi were in the original corridor study done by Francis Ching et.al. They are listed in that report.

Young asked if the Council recommended preservation for those sites. Young asked if the sites were in the corridor but not in the alignment.

Tyler answered the sites are definitely in the alignment because they are right in the middle of the corridor. Tyler said he has told the County of this before, and is telling them again now. These are not possible burials, these are known burials.

Kualii requested background information on the overall road project including specific information on burials within the project. Kualii asked that information include, but not be limited to the 2001 BTP at a minimum.

Young asked if the County can provide some of that information.

A motion was made to defer agenda item III.C. (Elarionoff/Sherlock)

Vote: All in Favor

Young said there is a request to move agenda item II.F. up on the agenda ahead of items D and E.

Lindsey said that prior to a motion to do so, the Council needs to ensure nobody in attendance has an objection to doing so.

Young said Fred Cachola (Cachola) has spoken with Halealoha Ayau (Ayau) about it and Ayau is o.k. with it.

Lindsey said in addition to Cachola, the landowners representative for item III.F. needs to concur.

Randy Vitousek (Vitousek) said he is a landowners representative for agenda item II.F. and does not object to the item being moved up in the agenda.

A motion was made to move agenda item III.F. up on the agenda to be the next item for discussion. (Sherlock/Hanoa)

Vote: All in Favor

A motion was made to recess the meeting. (Sherlock/Hanoa)

Vote: All in Favor

The meeting was recessed at 2:08 pm.

The meeting was reconvened at 2:26 p.m.

**F. SITE 2383, PAO'O AHUPUA'A, NORTH KOHALA DISTRICT, HAWAII ISLAND
TMK (3) 5-7-001:005**

Information/Recommendation: Discussion of archaeological and cultural resources identified on this TMK parcel and information that may identify Site 2383 as a burial. Recommendations from the Hawaii'i Island Burial Council to the Department of Land and Natural Resources and the Board of Land and Natural Resources on how Site 2383 should be identified and protected relative to a pending Conservation District Use Application.

Lindsey said an archaeological inventory survey was conducted on this property in 1980 and identified 27 sites. The Department determined that the 1980 inventory survey was adequate. A BTP for four burial sites identified by the inventory survey was presented to the HIBC in July 2003. The HIBC determined preservation in place for those four burial sites. For the 23 remaining sites, one was approved for data recovery and the other 22 are being addressed by an archaeological preservation plan currently under review by the Department. Information has recently come out that has resulted in concerns that one of those 22 sites, Site 2383 is actually a burial site.

Fred Cachola (Cachola) introduced himself to the Council. Cachola said he was born and raised in Kohala, he is a kupa o ka 'aina. Cachola said he got into this project early on, when as a member of 'Ike 'Aina, he was introduced to the landowner, Jonathen Cohen. Until about two weeks ago,

Cachola said he did not hear anything about this project since 2004. Two weeks ago, Cachola said he heard that Cohen had applied for a Conservation District Use Application (CDUA). Cachola said he is very concerned with the discovery of information related to Site 2383. Cachola said in reading information related to the CDUA, there was a map submitted by Na Ala Hele. On that map there is a notation that said "Kauwe's Grave".

Cachola presented copies of the map to the Council.

Cachola said the map is from the Hawai'i Territory survey of the Pao'o/Kaipuha'a Government Tract in North Kohala by C.L. Murray dated 1924. The map clearly notes the grave of Kauwe. Cachola said this grave is Site 2383 located on the property. This is a previously identified site. Cachola said the map was the first written proof that the site is a grave, but that does not mean the people in Kohala did not know. Cachola said Mr. Mike Issac, also a kupa of Kohala knew that this site was a grave.

Mike Issac (Issac) introduced himself to the Council. Issac said he is against the proposed location of Cohen's private, vacation complex. The complex would be a massive intrusion into an area that is very special. This area, Site 2383 is the final resting place of Kupuna Kauwe's iwi. The walls of this enclosure are culturally and spiritually important to all Hawaiians. Issac considers the placement of these intrusive structures anywhere near Site 2383 an affront to Hawaiians spiritual and cultural beliefs. Site 2383 is a wahi pana. Throughout this proposal there are continual references to Site 2382, which was previously disturbed. In contrast, Site 2383 is hardly mentioned at all except as a probable shrine, ko'a. This designation may have influenced its eventual location as a prominent center piece directly in front of the main terrace and swimming pool. This significant burial and spiritual site cannot be used as a centerpiece or landscape ornament in Cohen's front yard. Hawai'i Territory Registered Map 2711 by C.L. Murray dated February 1924 confirmed that Kupuna Kauwe's iwi were placed in this enclosure. This same map was submitted to Cohen as "attachment A" with a letter submitted by Na Ala Hele on January 9, 2006. Again they failed to note the significance of Site 2383.

Issac said a few years ago he visited Pao'o with Auntie Marie Solomon, Archaeologists Martha Yent and Pat McCoy of the Division of State Parks. Issac said he pointed out Site 2383 as a special burial enclosure. Issac said he also told them that the walls of this enclosure hold special spiritual meaning for Hawaiians that can see and understand what the wall holds. This burial enclosure is not a simple rock wall, but a unique document of the Hawaiian spiritual world. Issac is concerned that the applicant may attempt to alter or restore Site 2383 or other rock walls in this spiritual area. The applicant must not be allowed to move any of the rocks in and around this walled enclosure.

Cachola said the significance is not only for the site, but for the person, Kupuna Kauwe. In 1848, this entire tract from Lapakahi to Pao'o was Government land. For whatever reason, in 1856, Kauwe received a land grant. He must have been a man of stature to carve out 16 acres from Government land. When he died, he chose that site to be the resting place of his iwi.

Cachola said they are here today not only to notify the Council of the omission of Site 2383 from the previous BTP, but to also note the significance of the site and the kupuna that is there. Cachola hopes the Council will identify the site as a burial and reconsider previous action on the BTP. Cachola noted that the SHPD has not completed their approval of the BTP or their review of the preservation plan.

Cariaga asked if any of the family of Kauwe have come forward.

Cachola said they are researching the land grant. They have not completed the research into the family.

Cariaga said Dr. Billy Bergin wrote a book on Parker Ranch, and a Kauwe is mentioned in there. Cariaga said she comes from the Kauwe line, but from Ka'u. The Ka'u and Kohala Kauwes may be from different lines.

Cachola said he is also with a group called "Malama Kohala Kahakai". He and Ms. Gail Byrne are the two members of this group. The idea is to save the lands within coastal Kohala.

Issac said he also formed a group years ago to malama the coast and the ocean. Site 2383 is really something. The reason he never spoke of it before is because of exposure. Once word got out, and it is out, people are going down there to niale and start messing around with things they should not be. Aunty Marie Solomon took him down there and told him the place was very special, very powerful. The mana is strong. This was a couple of years before she passed. The site is there and is a document of Hawaiian spiritual beliefs and it cannot be used by anyone as a center piece or ornament in their front yard. This cannot be allowed.

Elarionoff said the term "Kohala Kahakai" is very interesting. "Ko" is the sweetness, as in sugar. The freshness or sweetness. "Ha" is breath. "La" is the sun. In essence "Kohala" is saying the sweet breath of the sun. In "Kahakai", we again see "ka" bringing attention to "ha" the breath and the life of the "kai" the ocean. The ocean is where the life is.

Elarionoff said it is important that Issac's earlier testimony is in the minutes of this meeting.

Young asked Lindsey if the original BTP contained the applicants proposal for building in this area.

Lindsey answered he did not recall.

Rechtman said in 1980 the property was surveyed by a different firm. That report went to the SHPD. Rechtman became involved with the property in 2002 for the current landowner. At that time the SHPD Hawai'i Island Archaeologist, Pat McCoy said the inventory survey was adequate. The landowner was dedicated to preserving all of the sites on the property. This property had received a CDUP previously, and there was a bulldozed area where they were going to build a house before. That permit lapsed and there was some legal issues involved with the property. The current landowner picked up on that process and re-applied for a CDUP. As part of that process, Rechtman did data recovery on a bulldozed site (2382). Rechtman did a BTP for the four burial sites known at a time. Site 2383 at the time was called a shrine in the inventory survey. The SHPD asked what the plan for that site was, and Rechtman said it was to be preserved, so the SHPD did not require any further work. The site was to be preserved along with all of the other sites on the property.

At the time of the BTP, the landowner was looking for a partnership with a group to do preservation management in an appropriate way. Contact was made with a group called " 'Ike 'Aina" who represented they would support the placement of a house in this area and they would work with whoever they could find to manage this property. An agreement was drawn up with 'Ike 'Aina. Rechtman said he believes it was Cachola who drew that agreement up with the landowner.

Rechtman said Cachola held a community meeting which the landowner did not know about. As a result of that meeting, people from Pao'o came forward and said they did not know anything about the proposal. Rechtman said they took a step back, and tried to find the people of this land. They identified Isabella Mahi-Medeiros and Arthur Mahi.

Rechtman said while Kauwe may have been an important person in the area, he was no more important than the other grant recipients in the area including Luhiau, who is a grant recipient in the mauka portion of Pao'o.

The Mahi and Luhiau family then came forward and told Rechtman that they wanted to work with him on this property. Cohen met the families and walked the property and looked at the plans. Cohen has included those families in this process as it has moved forward.

Rechtman said he recently became aware of the 1924 map. Whether Site 2383 is that grave on the map, Rechtman is not sure. In either case, the site is being preserved. If the HIBC wants to determine the site is a burial and preserve it through the BTP process, Rechtman said that is acceptable. They will consult the descendant families from the area about buffers. The site will be preserved in place, nobody is going to ask for relocation.

The house is being proposed in the only portion of the property that has not been bulldozed. If it is determined that there are elements of the proposed house that are too close to the site, the landowner in consultation with the descendants is willing to move the house to a position that is acceptable.

Young asked what buffers are in place for the sites addressed in the BTP.

Rechtman said the four burial sites are all together, so they are really one site. There is a 30 foot buffer around the sites. A jeep road will also be routed to ensure vehicles are going mauka of the burial site and not through it.

The buffers around Site 2383 can be established at 30 feet either through the current preservation plan the site is being addressed through or via the BTP process if the Council determines the site is indeed a burial.

There is currently a retaining wall about 15 feet mauka of the site.

Kuali'i asked if the landowner is willing to move that wall.

Rechtman answered he is. The landowner is willing to work with everyone.

Hanoa asked how big the property is.

Rechtman said the property is currently 10.6 acres. The original grant to Kauwe is 16 acres.

Hanoa asked if the CDUA has been approved by the DLNR.

Rechtman said no, the CDUA is pending with the Board of Land and Natural Resources.

Young said the reason there is a CDUA is that the owner wants to build in the Conservation District. Young asked how much of the property is in Conservation.

Rechtman said all of the property is zoned Conservation except for a small portion that is zoned Agriculture.

Roy Helbush (Helbush) asked what is on the mauka side of the retaining wall.

Rechtman answered a yard.

Young asked if the footprint of the proposed house was in the BTP.

Rechtman said the area where the house would be built was shown.

Young asked who was involved with designing that footprint.

Rechtman said the Mahi and Luhiau families.

Arthur Mahi (Mahi) said he is trying to preserve all of his kupuna on this land. Mahi he is not happy about selling the land and building houses. If the land could be preserved for the culture that would be ok, but they need the money.

Young asked Mahi if he considered Site 2383 to be a grave.

Mahi said the buffer zone is ok, but the house needs to be farther away.

Young asked Mahi if he believed the site was a grave.

Mahi answered yes, but the house needs to be farther away.

Cariaga said the Kauwe family needs to be consulted.

Cachola said the Kauwe name is mentioned in the CDUA, but not in the context of being buried here.

Young asked if the CDUA is going to be approved.

Rechtman said the BLNR makes that decision.

Young asked if the BLNR is addressing the issue of the grave.

Rechtman said the BLNR considers all the information, but the CDUP will approve the construction of a house.

Young asked if the HIBC determines the site to be a burial, would that delay the CDUP process.

Rechtman answered he was not sure.

The existing BTP will stay in place for the other four sites. Site 2383 will be preserved, the question is what mechanism will preserve the site.

Lindsey said the HIBC needs to consider the oral and written testimony, review any written historical information, and determine whether to recognize the Site 2383 as a burial. If the site is recognized as a burial, the preservation of the site must be addressed through a BTP. If the HIBC decides not to recognize the site as a burial, the preservation will continue to be addressed through a preservation plan in consultation with the descendants. Either way there is a path towards preservation and protection.

Cachola said a memorandum agreement was written by Susan Case. Cachola said his name is not mentioned in it at all. 'Ike 'Aina submitted a draft memorandum of agreement to Vitousek. Vitousek took that version and took it apart, especially in the areas that mentioned the significance of Site 2383 and then sent it back as the version Cohen would agree to. Vitousek asked them to remove parts that 'Ike 'Aina wanted to include. Cachola said that is when he started to get second thoughts about being involved. Cachola was interested in how the community would benefit. They were looking at educational activities and Cachola was talking to teachers on what to do. The memorandum of agreement was never pursued. Cachola said he has versions of what 'Ike 'Aina submitted and what Vitousek edited.

Cachola said the proposed footprint of the house is not included in the BTP from 2003. This house is over 5000 square feet not including other structures and swimming pools. The leach field for the sewer system is just mauka of Site 2383, a few feet away. The determination is not just for the burial site but how that relates to the entire project. When you look at the impact of the overall project on the sites, it is overwhelming.

Cachola said they are working very earnestly with Cohen even though Cohen's representatives have not contacted Cachola since 2003. Cachola said he is trying desperately to urge Cohen to trade or sell the land. Cachola said Cohen is agreeable to those options. This could set a precedent for other landowners in this sensitive area, to exchange and get out of this area. Cachola is not talking about a mile he is talking about 1800 feet. This is not about identifying a burial site and setting a buffer zone. It is to set a precedent for other landowners who will find burials on their property.

Cachola said he and his friends will be generating a map of all of the cultural sites, including burials along this coast with GPS coordinates to ensure that this will not happen again.

Mahi said they need to work together as 'ohana, we cannot fight each other.

Rechtman said he has been working with the descendants and people who have testified on this item for years. Nobody has been excluded.

Valerie Luhiau-Anjo introduced herself to the Council. From the very beginning of this project with Cohen, Auntie Isabell Mahi-Medeiros was the only family member that Rechtman worked with. Then they and Arthur Mahi because the Luhiau family has land up in that area in Lamaloloa, Lapakahi, Koae'e, and Kaipuha'a all adjacent to Pao'o. When they looked at the BTP, they made sure the first thing that was addressed were the cultural sites and burials to make sure they were protected and always preserved in place. If there were any inadvertent discoveries, those would be protected as well. When she looked at Cohen's house plan, he chose an area that was already

bulldozed and destroyed. He did not want to place his house in an area that was untouched. The buffers were to make sure the structures would not come close to any of the sites.

Luhiau-Anjo said she really is not sure what Cachola and 'Ike 'Aina's intention are. There is a group looking at protecting coastal areas in Kohala. It would be simple if those lands could go back to the Hawaiian families that come from that area. Realistically that is not going to happen. Cohen was one of the people that purchased Pao'o. Another landowner, Reish purchased Lamalaloa. Luhiau-Anjo said they have been before the HIBC for Lamalaloa. They fought the Reish project. The difference between Reish and Cohen is that Cohen was willing to sit down with them and discuss what he should do, what steps were appropriate and how the area should be treated. Luhiau-Anjo said she does not feel Cachola was omitted from that process. There were three years of discussions for this project. Auntie Marie Solomon has been working with all of them, including Issac in teaching about the area from here to Pololu. Documenting the historical sites and the stories that went with each site. What Auntie Marie Solomon told Issac about this place is true. You don't go around talking about wahi pana like it is an open subject. There are some things that families do not talk about and discuss. Luhiau-Anjo said as a young child they would visit this area and her father taught her about many places. Pao'o is one of the most sacred places along this coastline. There is a lot of power there, the sites are powerful.

Luhiau-Anjo said she is bothered that Cachola said he would be looking at this place for educational purposes. This is not an area for children. If you are educating people, you educate adults. This is a place for adults, not for school children. They have talked with Cohen to ensure every burial is protected. That is why they are here today.

Anthony Anjo (Anjo) said in an ideal world nothing would be built. Who is selling the land to build on. Hawaiian families that are fighting among themselves for money. Before Hawaiians start accusing other people, take a good look at yourself. Cohen has bent over backwards to accommodate what the people here want. What is at Pao'o is very powerful. There are places where the 'uhane, the spirits have never left. To enter these sacred areas is a desecration. Anjo said he has had experiences in these places.

Anjo said Cohen has been extremely accommodating. Cohen has never moved forward without first consulting everyone. Anjo said he was at the first meeting four years ago and he was shocked at the things that were said because people were speaking for other families. Anjo would never want someone speaking for his family.

Luhiau-Anjo said right now there is nothing there protecting the sites. There are a lot of people that go to the area. When Cohen moves there, he becomes a caretaker to watch over these areas. Luhiau-Anjo said they have asked nothing from Cohen other than to address the cultural sites and Cohen has started that process, but he is not done. There are a lot of things that need to be worked out. The discussions are not finished.

Young asked Luhiau-Anjo if she believed the site is a burial.

Luhiau-Anjo said we will never know unless it is looked at. It bothers her to even touch the site. If this is the Kauwe burial, then that is what the site will be known as. If the descendants would like to come, they have every right to do so, to come and visit. We don't know for sure what this site is. Luhiau-Anjo said she would like to know for sure so it can be treated as such. A fishing shrine and a burial are treated differently.

Anjo said there are many groups who would like to have unlimited access to these coastal areas.

Luhiau-Anjo said they have been fighting those groups. They do not want trails leading right up to or through these burial areas. Cohen is one of the few landowners who asked the people of the area what he could do to preserve this area. If people want access to the area, they can come down the access trail, fish or pick 'opihi, and then go home. These people do not need to go maha'oi in the burial and cultural sites. If people want to access the sites, they should be from the area.

Anjo said they take care of Kukuipahu. They have had people go to that site and leave crystals and money. These people go right into the heiau and desecrate the whole thing and act like it is their right to do so.

Young said the HIBC's focus will be on site 2383 and whether it is a burial. There may not be much the Council can do relative to the CDUA and the house, but the two issues are relative. There has been sufficient oral testimony today along with the written information Cachola submitted that indicates the site is a burial.

Luhiau-Anjo said given the testimony, she would say it is a burial. Luhiau-Anjo asked if this would be an inadvertent burial.

Lindsey said burial sites recognized based on oral testimony are considered previously identified.

Kuali'i asked Luhiau-Anjo if the proximity of the proposed house site to Site 2383 bothered her.

Luhiau-Anjo said the house site has been placed in an area that had been previously bulldozed. The buffers can be discussed later. To move the house to another area would be to move it into an untouched area.

Anjo said the house does not exist, it is only on paper. People are talking like it is there already. Anjo said Cohen is willing to do whatever needs to be done because that is the kind of person he is.

Young said if the Council makes a determination on this matter, it will have an impact on the landowner. The Council is trying to consider all the information on this matter.

Luhiau-Anjo said that the most important thing from the beginning was to protect the burial and cultural sites. If this site is a burial, then Cohen will have to deal with it.

Anjo said another issue will be access to the sites. There is a market for Hawaiian items, and there are people who go out and take them to sell. The agreement is that everything that has a human imprint on it will be protected and preserved.

Luhiau-Anjo said Cohen could have been fighting them from the beginning, but he has not. Luhiau-Anjo said that has made them take a look at themselves.

Vitousek said that he represents Cohen and that Cohen would not object if the HIBC recognized this site as a grave. Cohen wants it done right, and that is the way it has been all along. If the Council looks at the evidence and testimony, and feels like it should be a grave that is the way it will be.

Elarionoff asked if Cohen is willing to work with both sides to bring this to a conclusion.

Vitousek said Cohen is willing to try. Cohen does not want to be in a situation where he is unwelcome in a house he built.

Young asked what the Council's options are.

Lindsey said the matter would still be subject to a review by the Department, but generally burial sites recognized based on oral testimony are treated as previously identified. If that is the case here, a new burial treatment plan would have to be generated.

A motion was made to recognize Site 2383 as a burial site. (Elarionoff/Sherlock)

Vote: All in Favor

Young asked if the Council should be making recommendations.

Lindsey said the Council could recommend protective measures be put in place. Lindsey said the CDUA process is still moving forward, and that he was unsure of a timeframe.

Vitousek said the landowner has requested an extension of the 180 day limitation on the CDUA. There has also been a request for a contested case hearing. The normal process is for the board to defer action and refer the contested case to a hearings officer. That process normally takes 6-8 months.

Lindsey said there will still be a review of this matter within the Department.

A motion was made to close agenda item F. (Elarionoff/Cariaga)

Vote: All in Favor

D. KANUPA CAVE, KALALA AHUPUA'A, KOHALA DISTRICT, HAWAI'I ISLAND

Information/Recommendation: Presentation by Hui Malama I Na Kupuna O Hawai'i Nei regarding an update to the Hawai'i Island Burial Council on the status of moepu stolen from Kanupa Cave after they were repatriated to the Cave by Hui Malama I Na Kupuna O Hawai'i Nei. Discussion of legal matters resulting from the theft, including a recommendation from the Hawai'i Island Burial Council that the State of Hawai'i conduct an investigation and pursue prosecution. Recommendations by the Hawai'i Island Burial Council on returning the moepu to Kanupa cave and the permanent sealing of Kanupa cave.

Edward Halealoha Ayau introduces himself to the Council. He represents Hui Malama I Na Kupuna O Hawai'i Nei (Hui Malama). Ayau said in October 2004 he made a presentation to the HIBC regarding this matter. This site was subject to a reburial of iwi and moepu that were repatriated by Bishop Museum to four organizations: the HIBC, OHA, Hui Malama and Ka Lahui Hawai'i. Bishop Museum bought the items from Emerson, who took them from the cave. Emerson also sold items to the Peabody Essex Museum.

After the iwi and the moepu were returned, the cave was looted. Part of his October 2004 presentation to the HIBC was to seek guidance on how to proceed. An inventory of the iwi and items within the cave was conducted.

The result of the two year investigation resulted in the indictment of two men, Daniel Taylor (Taylor) and John Carta (Carta) for violations of Federal Law. Ayau said there has been no State investigation. Ayau said that there have been at least four State law violations. Ayau said that the four groups must jointly write a letter to Attorney General Mark Bennet and DLNR Chairman Peter Young to ask for a State investigation. Ayau said it is not that the State is ignoring the violations, they are refusing to enforce them.

Ayau said under NAGPRA, legal title to the items is turned over. As the legal owners, the four groups involved should request that once the Federal prosecution is over, the items should be returned to the owners. The four owners should write a joint letter to U.S. Attorney Ed Kubo requesting that the items be returned. Ayau said they have been asking how the items have been kept. Once returned, the four owners will determine where and how the items are kept until they are put back in the cave. Ayau said if the items cannot be returned, where and how these items are being stored must be disclosed.

Ayau said if the State does not pursue their own investigation and prosecution, the goal is to put the items back in Kanupa Cave and to seal it permanently. Ayau noted that it has been determined that no iwi were taken. Carta and Taylor only took items they determined were of “high value”.

Ayau said he hopes these letters will help initiate a State investigation and that hopefully in the end, both Federal and State prosecution will send a message to ensure a situation like this will not happen again. If it does happen again, there will need to be coordination between the claimants, the Federal agencies, State agencies and the courts.

Elarionoff asked Ayau if these letters should address the reburial and permanent sealing of the cave.

Ayau said the ultimate goal is to rebury the items and seal the cave, but first the State needs to pursue violations of State law and then the owners need to get the items back.

A motion was made to authorize the HIBC Chair to sign a letter along with representatives of the three other owners to U.S. Attorney Ed Kubo requesting that the moepu stolen from Kanupa Cave be returned to the legal owners. Hanoa/Cariaga

Vote: All in Favor

A motion was made to authorize the HIBC Chair to sign a letter along with representatives of the three other owners to the State Attorney General Mark Bennet recommending the State pursue all State law violations against the persons who trespassed, disturbed the site and stole the moepu from Kanupa Cave. Cariaga/Hanoa

Vote: All in Favor

E. UNIVERSITY OF PENNSYLVANIA NAGPRA REPATRIATION

Information/Recommendation: Presentation by Hui Malama I Na Kupuna O Hawai'i Nei on the return of iwi kupuna from the University of Pennsylvania. Recommendations by the Hawai'i Island Burial Council on the return of the iwi kupuna and temporary curation will be discussed. Recommendations on the disposition of all iwi kupuna thought to be in the possession of the University of Pennsylvania.

Ayau said a student at the University of Pennsylvania, Herbert Poepoe (Poepoe) recently discovered an iwi po'o in the museum collections which is on permanent loan from the Wistar Institute. There have been a total of four repatriations from the University in the past. In those cases, Hui Malama worked with the HIBC and OHA to facilitate repatriation and reburial. Ayau said Poepoe had contacted the Pu'u honua o Honaunau National Park to see if the iwi po'o could go there until final disposition is determined. Ayau said the University of Penn has said the po'o could go there as long as the National Park is ok with it and Hui Malama, OHA and the HIBC agree to it.

Pu'u honua o Honaunau National Park Superintendent Bell (Bell) said the iwi po'o can come to the park.

A motion was made to authorize the HIBC Chair to sign a letter along with representatives of OHA and Hui Malama entering into an agreement which authorizes the return of the iwi po'o in the custody of Mr. Herbert Poepoe from the University of Pennsylvania and then placing the po'o in curation at Pu'u honua o Honaunau National Park. (Sherlock/Hanoa)

Vote: All in Favor

A motion was made to defer the remainder of the April 20, 2006 HIBC agenda. (Helbush/Sherlock)

Vote: All in Favor

A motion was made to adjourn the HIBC meeting. (Helbush/Hanoa)

Vote: All in Favor

The HIBC meeting was adjourned at 5:06 pm